

Document Management System  
US Department of Transportation  
Room Plaza Level 401  
400 7<sup>th</sup> St, SW  
Washington, DC 20590-0001

RE: Docket Number FAA-2003-15062

August 4, 2003

United Technologies Corporation (UTC) would like to take this opportunity to offer comments to the FAA's proposed rulemaking establishing a new Part 3 to Chapter 1 of Title 14, Code of Federal Regulations. UTC endorses FAA efforts aimed at ensuring that only airworthy parts are installed on aircraft, engines or propellers and agrees with the intent of this proposal. We understand and agree with the provisions in the proposal related to intentionally false and fraudulent statements. However, we do have concerns with the contents of the proposal related to misleading statements and statements regarding FAA airworthiness standards, particularly in relation to potential unintended consequences for manufacturers.

Section 3.5(a) states "Applicability of this section. This section applies to all records regarding type certificated products, and to parts and materials that may be used on type certificated products..."

Comment: "Parts and materials" need to be defined. Current context is very broad.

Section 3.5(b) states "Terms used in this section. Product means an aircraft, aircraft engine, or propeller. Record includes..."

Comment: Inclusion of advertisements will lead to many subjective judgments.

Section 3.5(c)(1) states "Any fraudulent or intentionally false statement ..."

Comment: The term "acceptability" needs to be defined. For example, for configuration changes, a part may be acceptable for limited configurations but not others.

Section 3.5(c)(2) states "Any fraudulent or intentionally false reproduction..."

Comment: The term "fraud" needs to be defined to stress a knowing and willful intent to deceive or trick.

Section 3.5(d) states: "Preventing misleading statements. No person in any record may express or imply, or cause to be expressed or implied, that a type certified product is airworthy, or that a part or material is acceptable for installation on type certificated product, unless the person can show with appropriate records that the product is airworthy or that the part or material is acceptable for installation on a type certificated product."

We also note that a “record” is very broadly defined in section 3.1 to include “all forms of records, including paper, microfilm,” ... “and electronic records. “Record” includes logbooks, inspection records, reports, advertisements, and labels.” This definition should be revised to address in part the concerns outlined below:

We also note that the preamble states that “[u]nlike the definition of an intentionally false statement, *there does not have to be knowledge that the statement would mislead; nor must there be an intent to deceive.*” (Emphasis added.)

This can lead to several potential problems for manufacturers:

- a) First, this text can be read that any escape from an FAA approved quality system could be viewed as a violation of section 3.5, and either the manufacturer or inspectors signing for acceptability could be subject to sanction from the FAA for legitimate mistakes.
- b) Technical debate regarding acceptability of parts, both currently under manufacturer’s quality control system and those in the field, may be viewed as a violation of section 3.5. Internal reports, correspondence, and presentation are often developed during Engineering review of parts acceptability at a manufacturer.
- c) The proposal may reduce the quality of technical support provided to customers in the field. Since under the proposal, one must have a “demonstrable basis for stating or implying” that parts are acceptable or airworthy, manufacturers’ technical support operations may not be able to provide requested assistance and opinions to customers without risking being cited for violations of section 3.5. An example of this may be a statement of “no technical objection” made to a customer pursuing an alternate repair procedure with the FAA.
- d) Illustrated Parts Catalogs (IPCs) are not FAA approved documents nor are they intended to provide FAA approval status. They are prepared by manufacturers and provided to assist the customer in many roles. The preamble citation that current IPCs may contain misleading information that may violate section 3.5 is troubling for many manufacturers. IPCs are used to not only reference the currently available parts, they are often used to provide a historical reference of parts that have been or may be installed on products. Therefore, the implication that any older configuration parts listed in an IPC may constitute a violation of section 3.5 is contrary to one of the intents, and valuable services, of an IPC. We request that the FAA reconsider this position so that IPCs can continue to serve the full range of business needs of our customers.
- e) Determining that a part is eligible for installation has always been the duty of the installer, not repair stations or distributors.

Section 3.5(e) appears to be related to the compliance of already manufactured parts to the applicable FAA design certification standards. However, we are concerned that this provision could be applied to the process of certifying designs, and therefore stifle legitimate technical debate either within a company or between an applicant and the FAA on whether or not new designs adequately comply with the requirements. Under this

scenario if any FAA Designated Engineering Representative (DER) supplies a recommendation for FAA approval of data, and this approval is not granted, could be held in violation of section 3.5. We believe a minor modification of the text will clarify the intent of this section and, therefore, recommend the following:

(e) Compliance with FAA airworthiness standards for produced products, parts, or material. If a person expresses or implies, or causes to be expressed or implied, in any record that a produced product, part or material meets FAA airworthiness standards, the person...”

Section 3.5(f) states: “Inspection. In order for the Administrator to determine compliance with 49 U.S.C. Subtitle VII and this section...”

Comment: (1) This allows FAA to make record searches without a prior justification. It would be more agreeable allowing, “audit by the FAA”. (2) This also allows FAA to copy any records since there is no stated restriction on what may be copied. These are valuable commercial documents and competition can reach under FOIA.

UTC is concerned over the potential for misapplication of this new regulation, particularly with regard to misleading statements. We believe our areas of concern do lie outside the intended application of the regulation. As such, we have outlined areas where clarification of the Part 3 requirements are required to ensure it is applied as intended. In addition to clarifying rule and preamble material, we suggest that a modification to the implied definition and scope of the term “misleading” be considered to require that the person intentionally or willfully and knowingly mislead in regards to *FAA approval status* only of specific products, parts or materials. UTC is willing to assist the FAA in resolving these concerns. Please contact me if we can be of assistance.

Sincerely,

Timothy W. McHenry  
Regulatory Compliance Office  
Pratt & Whitney  
400 Main Street M/S 102-35  
East Hartford, CT 06118